

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FLOYD CUMMINGS, )  
                        )  
                        )  
Plaintiff,         )  
                        )  
vs.                   ) Case No. 08-cv-0718-MJR-PMF  
                        )  
                        )  
ESPN CLASSIC, INC., )  
                        )  
                        )  
Defendant.         )

MEMORANDUM and ORDER

**REAGAN, District Judge:**

On March 9, 2009, this Court dismissed Plaintiff Cummings' suit against ESPN Classic. Judgment was entered accordingly. Cummings challenged the dismissal by appealing to the United States Court of Appeals for the Seventh Circuit. Cummings was granted leave to appeal *in forma pauperis*, and the record on appeal was transmitted to the Seventh Circuit in mid-June 2009.

On July 24, 2009, Cummings moved this Court for relief from the March 9, 2009 judgment. This Court cannot rule on Cummings' motion, because his appeal is pending in the Seventh Circuit, and the merits of the case cannot be two places at once.

Stated another way, when Cummings filed his notice of appeal, this Court lost the power to revisit its dismissal order or issue any new rulings on the merits of Cummings' case.

"The filing of a notice of appeal is an event of jurisdictional significance – it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." ***Wisconsin Mut. Ins. Co. v. United States*, 441 F.3d 502, 504 (7<sup>th</sup> Cir. 2006)**, *citing Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). ***Accord Kusay v. United States*, 62 F.3d 192, 193 (7<sup>th</sup> Cir. 1995).**

The law of this Circuit provides that the notice of appeal "shifts control over the issues on appeal to the appellate court," at which point the district court loses the power to alter the ruling taken up on appeal. **See *Brenner v. C.F.T.C.*, 338 F.3d 713, 722 (7<sup>th</sup> Cir. 2003)**. This reduces the chance for conflict among tribunals (different rulings from two courts handling the same issue at the same time) and prevents "the waste of time and money that occurs if the district court changes a judgment after an appeal...." ***Wisconsin Mut. Ins. Co.*, 441 F.3d at 504.**

Accordingly, the Court **DENIES FOR LACK OF SUBJECT MATTER JURISDICTION** Cummings' July 24, 2009 motion for relief from judgment (Doc. 37).

IT IS SO ORDERED.

DATED this 25th day of July 2009.

s/ Michael J. Reagan  
Michael J. Reagan  
United States District Judge